

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3-:93-CR-034(8)

Case No. 3-:04-CV-344

WAYNE L. WHEAT,

District Judge Thomas M. Rose

Defendant.

Chief Magistrate Judge Michael R. Merz

**ENTRY AND ORDER OVERRULING WHEAT’S OBJECTIONS TO THE CHIEF
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATIONS REGARDING
WHEAT’S MOTION TO SET ASIDE AND VACATE HIS SENTENCE; ADOPTING
THE CHIEF MAGISTRATE JUDGE’S REPORT AND RECOMMENDATIONS IN ITS
ENTIRETY AND TERMINATING THESE CIVIL AND CRIMINAL CASES**

This matter is now before the Court pursuant to Objections (doc. #1088 in criminal case) filed by Wayne L. Wheat (“Wheat”) to the Report and Recommendations issued on August 29, 2007, by Chief Magistrate Judge Michael R. Merz (doc. #1085 in criminal case). The District Judge has reviewed the findings of Chief Magistrate Judge Merz. The District Judge has also made a de novo review of the record in this case pursuant to 28 U.S.C. § 636(b), Fed.R.Civ.P. 72(b) and Fed.R.Crim.P. 29. Upon consideration of the foregoing, the Court finds that the Objections are not well-taken and they are hereby OVERRULED.

The Chief Magistrate Judge’s Report and Recommendations is ADOPTED in its entirety. Wheat’s Motion To Set Aside and Vacate Sentence pursuant to 28 U.S.C. §2255 (doc. 1030 in criminal case) is DENIED. Because reasonable jurists would not disagree with this conclusion, Wheat is also denied any requested certificate of appealability. The captioned civil and criminal

cases are hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Twenty-Sixth day of September, 2007.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record